SB CIVIL MISC. APPEAL NO. 406/1995
(NAGENDRA SINGH v SHRI BEANT SINGH & ORS.)

HON'BLE MR. JUSTICE R.S. CHAUHAN

DATE OF ORDER: 22.8.06.

Mr. K.N. Tiwari for the appellant.
Mr. Satendra Sharma for the respondents.

The appellant has challenged the award dated 7.3.95 passed by the Motor Accident Claims Tribunal, Jaipur City, Jaipur whereby a compensation of only Rs. 30,000/- along with 12% interest p.a., has been granted to the appellant.

The brief facts of the case are that on 5.4.99 around 2.00 p.m., when the appellant was coming on scooter along with his friend Jaiprakash on he Delhi bye-pass route, a truck, bearing registration No. CPD 8023, being driven rashly and negligently hit the scooter. Consequently both Jaiprakash and the appellant suffered injuries. For the injuries suffered by him, the appellant filed a claim petition for a compensation of Rs. 8,40,000/-. According to the appellant the fumer bone of his left leg sustained a compound fracture for which he had to undergo operation at the S.M.S. Hospital in Jaipur. As a result of the said operation his left leg is now shorter than his right one. Because of the fracture he cannot climb the stairs, cannot sit with his

folded legs and has difficulty in walking. According to the disability certificate he has suffered a disability of 10%. In order to prove his case, the appellant had examined three witnesses. After hearing both the parties, the learned Tribunal granted compensation to the appellant as stated above. Since the appellant is still aggrieved by the meagre compensation of Rs. 30,000/-, he has filed this appeal for enhancement before this Court.

Mr. K.N. Tiwari, the learned counsel for the appellant has vehemently argued that while calculating the compensation the learned Tribunal has not divided the compensation into the category of pecuniary and non pecuniary considerations. Considering the fact that the appellant has become physically challenged for the rest of his life, a high compensation should have been paid to him. In order to support his contentions, he has relied upon the case of R.D. Hattangadi Vs. Pest Control (India) Pvt. Ltd. And others (1995 ACJ 366).

On the other hand, Mr. Satendra Sharma, the learned counsel for the respondents, has argued that considering the fact that the accident took place in 1990 and the award was passed in 1995, a

compensation of Rs. 30,000/- is more than just and reasonable. Hence he has supported the impugned award.

We have heard both the learned counsels for the parties and have perused the impugned award.

The appellant met the accident in the young age of 27 years. He became physically challenged in youth. The entire life of the appellant lay before him. A young man who is suddenly physically handicapped would certainly feel a sense of frustration, a sense of depression, a sense of pain and agony for his life, which has suddenly taken a 'U' turn. Not only his social standing, but also his occupational possibilities are adversely effected by his physical deformity. Both in his self esteem and in the eyes of other, the person seems changed. Although the pecuniary benefits can easily be assessed as they are based on objective considerations. But, the non-pecuniary considerations are difficult to assess as they are based on subjective factors. While defining the non-pecuniary basis, the Hon'ble Supreme Court in the case of R.D. Hattangadi (supra) has held as under :-

> “Broadly speaking, while fixing an amount of compensation payable to a victim of an accident, the

> damages have to be assessed separately as pecuniary damages and special damages. Pecuniary damages are those which the victim has actually incurred and which are capable of being calculated in terms of money; whereas non-pecuniary damages are those which are incapable of being assessed by arithmetical calculations. In order to appreciate two concepts pecuniary damages may include expenses incurred by the claimant: (i) medical attendance; (ii) loss loss of earning of profit up to the date of trial; (iii) other material loss. So far as non-pecuniary damages are concerned, they may include (i) damages for mental and physical shock, pain and suffering already suffered or likely to be suffered in future; (ii) damages to compensate for the loss of amenities of life which may include a variety of matters, i.e., on account of injury the claimant may not be able to walk, run or sit; (iii) damages for the loss of expectation of life, i.e., on account of injury the normal longevity of the person concerned is shortened; (iv) inconvenience, hardship, discomfort, disappointment, frustration and mental stress in life."

Although a monetary compensation is insufficient to restore the body to its previous state, the monetary compensation is meant to improve the condition of the victim of an accident. Keeping in view the parameters established by the Hon'ble Supreme court, the learned Tribunal should have awarded compensation, damages for loss of amenities i.e. unable to wall, run or sit and damages for inconvenience, hardship, discomfort, disappointment, frustration mental and mental stress in life. Considering the difficulties the appellant would face both in his personal and professional life,

considering the parameters established laid down by the Apex Court, we are inclined to enhance the compensation from Rs. 30,000/- to Rs. 1,00,000/-. The respondent No.3 is directed to deposit the enhanced amount with the learned Tribunal within a period of one month. And the Tribunal is directed to inform the claimant-appellant and to disburse the enhanced amount within a period of one month thereafter. With these observations this appeal is allowed.

(R.S. CHAUHAN)J.

MRG.